JOHN C. EFIRD

IBLA 79-434 Decided January 17, 1980

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting competitive oil and gas lease bid NM 36688 (Okla.).

Affirmed.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Competitive Leases

The Geological Survey is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on its reasoned analysis.

APPEARANCES: John C. Efird, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

John C. Efird and Howell Spear individually each bid $100 for Parcel 9, NM 36688 (Okla.), at the competitive oil and gas lease sale held on April 17, 1979, in Santa Fe, New Mexico. Theirs were the highest bids for the parcel, consisting of 4.34 acres. By decision dated April 30, 1979, the New Mexico State Office, Bureau of Land Management (BLM), rejected both bids on the recommendation of the Oil and

Gas Supervisor, Mid-Continent Area, Geological Survey (Survey), Tulsa, Oklahoma, because they were deemed inadequate. Spear's bid was also rejected because his bid deposit was not submitted in an acceptable form. Spear has not appealed but Efird has.

In his statement of reasons Efird contends that because the tract has not been drilled on, its actual value is unknown and Survey's recommendation should not be controlling. He asserts that BLM uses the highest bid as a standard means of determining who is entitled to the lease, that he is the highest qualified bidder, and that the Board should find in his favor and award him the lease.

Survey based its recommendation to reject the bid on the fact that appellant's bid of $23.04 per acre was substantially less than the $250 per-acre value estimated in Survey's presale evaluation. Survey based its estimate on the presence of "Tonkowa sand oil and gas production in all adjacent sections, except sec. 17 to the east." There is also Cherokee sand, Cleveland sand, Cottage Grove sand, Mississippi lime and Marrow sand production within 2 miles in several directions. Survey cited another Federal lease in the section which received a bonus of $310.75 per acre in May 1978, and a State lease nearby which brought $126.15 per acre. Survey states they know of no oil and gas leases in the vicinity selling for bonuses as low as that offered by appellant. Based on continuously rising prices for oil and gas which are escalating bonus offers in the area, Survey believes "that the minimum acceptable oil and gas lease bonus of $250.00 per acre, as determined by our lease sale committee, is compatible with the fair market value of bonuses currently being offered and accepted in the area."

[1] Under 30 U.S.C. § 226(b) (1976), the Secretary of the Interior or his authorized delegate clearly has the discretionary authority to reject a high bid at a competitive oil and gas lease sale on the basis of an inadequate bonus. This right is recognized in the regulations at 43 CFR 3120.3-1. In Southern Union Exploration Co., 41 IBLA 81 (1979), we noted:

> [T]he Board has upheld the authority of the Secretary or his delegate to reject bids for inadequacy of the offered bonus provided that the rejection has a reasonable basis in fact. Frances J. Richmond, 29 IBLA 137 (1977); Arkla Exploration Co., 25 IBLA 220 (1976); H & W Oil Co., Inc. [22 IBLA 313 (1975)].
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> Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases, and the Secretary reserves the right to reject a bid which will not provide a fair return. Coquina Oil Corp., 29 IBLA 310, 311 (1977). See Exxon Co. U.S.A., 15 IBLA 345, 357-58 (1974).

> More particularly, the Board has held that the Department is not bound to accept a bid when the Government's presale value greatly exceeds the bid. Coquina Oil Corp., supra at 312; H & W Oil Co., Inc., supra.

41 IBLA at 83.

[2] The Geological Survey is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on the Survey's reasoned analysis. Gerald S. Ostrowski, 34 IBLA 254 (1978); Coquina Oil Corp., supra; Arkla Exploration Co., supra. When BLM relies on Survey's analysis in rejecting a bid as inadequate, it must ensure that a reasonable explanation is provided in the record to support that decision. In the case before us there is such an explanation in the record. Survey describes the presence of producing wells in the adjacent sections and within 2 miles to the south and northeast. Survey also quotes the bonuses paid for other leases in the area, stating: "We have no knowledge of any oil and gas leases near the subject parcel selling for bonuses as low as Mr. Efird has offered." Appellant has provided no information tending to show Survey's evaluation to be in error, nor distinguishing this parcel from the valuable parcels surrounding it.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Frederick Fishman
Administrative Judge